

DRUG PARAPHERNALIA AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor: _____

LONG TITLE**General Description:**

This bill concerns possession of certain types of drug paraphernalia.

Highlighted Provisions:

This bill:

- ▶ creates an affirmative defense to a charge of possession of certain types of drug paraphernalia under specified conditions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37a-5, as last amended by Laws of Utah 2011, Chapter 101

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-37a-5** is amended to read:

58-37a-5. Unlawful acts.

(1) (a) It is unlawful for [any] a person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,



produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body in violation of this chapter.

(b) ~~[Any]~~ A person who violates Subsection (1)(a) is guilty of a class B misdemeanor.

(2) (a) It is unlawful for ~~[any]~~ a person to deliver, possess with intent to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body in violation of this act.

(b) ~~[Any]~~ A person who violates Subsection (2)(a) is guilty of a class A misdemeanor.

(3) ~~[Any]~~ A person 18 years ~~[of age]~~ old or older who delivers drug paraphernalia to a person younger than 18 years ~~[of age]~~ old and who is three years or more younger than the person making the delivery is guilty of a third degree felony.

(4) (a) It is unlawful for ~~[any]~~ a person to place in this state in ~~[any]~~ a newspaper, magazine, handbill, or other publication ~~[any]~~ an advertisement, knowing that the purpose of the advertisement is to promote the sale of drug paraphernalia.

(b) ~~[Any]~~ A person who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(5) (a) A person may not be charged with distribution of hypodermic syringes as drug paraphernalia if at the time of sale or distribution the syringes are in a sealed sterile package and are for a legitimate medical purpose, including:

(i) injection of prescription medications as prescribed by a practitioner; or

(ii) the prevention of disease transmission.

(b) A person may not be charged with possession of a hypodermic ~~[syringes]~~ syringe as drug paraphernalia if the syringe is unused and is in a sealed sterile package.

(6) In a prosecution under Subsection (1) for possession of a hypodermic syringe or needle, it is an affirmative defense if:

(a) the hypodermic syringe or needle is stored in a sealed puncture-resistant container, such as a medical sharps disposal container, that is clearly marked on the outside of the container with a warning that identifies the container as containing medical waste; and

(b) the person is currently enrolled or participating in a syringe exchange program

59 under Section [26B-7-117](#).

60 ~~[(6)]~~ (7) A person may be charged and sentenced for a violation of this section,
61 notwithstanding a charge and sentence for a violation of any other section of this chapter.

62 Section 2. **Effective date.**

63 This bill takes effect on May 1, 2024.